



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,632	11/26/2003	Frank Gersensky	L&L-10261	9708

24131 7590 02/10/2006

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

EXAMINER

NGUYEN, KHAI MINH

ART UNIT	PAPER NUMBER
----------	--------------

2687

DATE MAILED: 02/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,632

Applicant(s)

GERSEMSKY ET AL.

Examiner

Khai M. Nguyen

Art Unit

2687

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-10, 13-16, 19-24 and 27-32 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 11, 12, 17, 18, 25, 26 and 33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This Office Action is response to Amendment filed on 11/23/2005
Claims 1-33 are pending.

Response to Arguments

2. Applicant's arguments with respect to claims 1-33 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

With respect to claims 1, 15, and 32, the language used by Applicant merely suggests or makes optional those features described as "capable", "operable", or "possibly"; such language does not require steps to be performed nor limits the claim to a particular structure.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

Art Unit: 2687

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 8-10, 13-16, 22-24, and 27-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Herring et al. (U.S.Pat-6958987).

Regarding claim 1, Herring teaches data transmission system (fig.1, abstract), comprising:

a base station (fig.2, base station 102);

at least one mobile station (fig.2, col.4, lines 30-47), data packets can be transmitted by radio using a time slot method between said base station and said mobile station (col.2, line 50 to col.3, line 4);

first means for transmitting a first part of a data packet at a predetermined first symbol rate and at a first transmission frequency (fig.8, A field, col.2 , lines 5-34, col.8, lines 19-55); and

second means for transmitting a second part of the data packet at a second symbol rate and at a second transmission frequency (fig.8, B field, col.2 , lines 5-34, col.8, lines 19-55).

said second symbol rate possibly differing from said predetermined first symbol rate (fig.8, col.2 , lines 5-34, col.8, lines 19-55).

Regarding claim 2, Herring teaches the data transmission system according to claim 1, wherein the first part of the data packet contains information about the second symbol rate (fig.8, col.2, lines 5-34).

Regarding claim 8, Herring teaches the data transmission system according to claim 1, wherein said first means has means for producing identification information for identification of an association between said base station and said mobile station (fig.8, col.8, lines 40-67).

Regarding claim 9, Herring teaches the data transmission system according to claim 1, wherein said first means has means for producing a first data packet head (fig.8, A field, col.2, lines 5-34).

Regarding claim 10, Herring teaches the data transmission system according to claim 1, wherein said second means has means for producing a synchronization word for synchronization of said base station to said mobile station at the second symbol rate (fig.8, B field, col.2, lines 5-34).

Regarding claim 13, Herring teaches the data transmission system according to claim 1, wherein the data transmission system can be used in digital cordless communications systems (col.2, lines 35-43), in computer-controlled entertainment systems, computer-controlled games systems, or in systems with real-time requirements (fig.2, col.4, lines 30-47).

Regarding claim 14, Herring teaches the data transmission system according to claim 1, wherein the first part of the data packet contains information about the second transmission frequency (col.2, lines 5-34).

Regarding claim 15, Herring teaches a method for radio transmission of data packets between a base station and at least one mobile station (col.2, line 50 to col.3, line 4), which comprises the steps of:

transmitting a first part of a data packet at a predetermined first symbol rate and at a first transmission frequency (fig.8, A field, col.2, lines 5-34, col.8, lines 19-55); and

transmitting a second part of the data packet at a second symbol rate and at a second transmission frequency (fig.8, B field, col.2, lines 5-34, col.8, lines 19-55).

said second symbol rate possibly differing from said predetermined first symbol rate (fig.8, col.2, lines 5-34, col.8, lines 19-55).

Regarding claim 16, Herring teaches the method according to claim 15, which further comprises transmitting information about the second symbol rate with the first part of the data packet (fig.8, col.2, lines 5-34).

Regarding claim 22, Herring teaches the method according to claim 15, which further comprises transmitting in the first part of the data packet identification information for identifying an association between the base station and the mobile station (fig.8, A field, col.2, lines 5-34).

Regarding claim 23, Herring teaches the method according to claim 15, which further comprises transmitting a first data packet header in the first part of the data packet (fig.8, A field, col.2, lines 5-34).

Regarding claim 24, Herring teaches the method according to claim 15, which further comprises transferring a synchronization word, for synchronization of the base station to the at least one mobile station, to the second symbol rate at a start of the second part of the data packet (fig.8, B field, col.2, lines 5-34).

Regarding claim 27, Herring teaches the method according to claim 15, which further comprises forming the base station and the mobile station as a digital cordless communications system (col.2, lines 35-43).

Regarding claim 28, Herring teaches the method according to claim 15, which further comprises forming the base station and the mobile station as a computer-controlled entertainment system (fig.2, col.4, lines 30-56).

Regarding claim 29, Herring teaches the method according to claim 15, which further comprises forming the base station and the mobile station as a computer-controlled game system (fig.2, col.4, lines 30-56).

Regarding claim 30, Herring teaches the method according to claim 15, which further comprises forming the base station and the mobile station as a system with real-time requirements (fig.2, col.4, lines 30-56).

Regarding claim 31, Herring teaches the method according to claim 15, which further comprises transmitting information about the second transmission frequency with the first part of the data packet (col.2, lines 5-34).

Regarding claim 32, Herring teaches a data transmission system (fig.1, abstract), comprising:

a base station (fig.2, base station 102); and

at least one mobile station (fig.2, col.4, lines 30-47), data packets can be transmitted by radio using a time slot method between said base station and said mobile station (col.2, line 50 to col.3, line 4);

said base station and said mobile station programmed to transmit a first part of a data packet at a predetermined first symbol rate and at a first transmission frequency (fig.8, A field, col.2, lines 5-34, col.8, lines 19-55);

second base station and said mobile station programmed to transmit a second part of the data packet at a second symbol rate and at a second transmission frequency (fig.8, B field, col.2, lines 5-34, col.8, lines 19-55).

said second symbol rate possibly differing from said predetermined first symbol rate (fig.8, col.2, lines 5-34, col.8, lines 19-55).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

Art Unit: 2687

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-7, 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herring (U.S.Pat-6958987) in view of Burgess et al. (U.S.Pat-6532228).

Regarding claims 5, and 19, Herring teaches the data transmission system according to claim 1, and 15.

Herring fails to specifically disclose base station and mobile station each have a local oscillator. However, Burgess teaches receivers or transmitters for receiving or transmitting respectively a radio packet at a predetermined frequency, Burgess teaches base station and mobile station each have a local oscillator (fig.4-5, col.1, lines 29-49). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use base station and mobile station each have a local oscillator as taught by Burgess with Herring teaching in order to provides a receiver for receiving a radio packet transmitted and a transmission frequency and reduces the number of collisions due to partial overlap.

Regarding claims 6, and 20, Herring teaches the data transmission system according to claim 1, and 19.

Herring fails to specifically disclose local oscillator is in each case connected to a phase locked loop. However, Burgess teaches receivers or transmitters for receiving or

Art Unit: 2687

transmitting respectively a radio packet at a predetermined frequency, Burgess teaches local oscillator is in each case connected to a phase locked loop (fig.4-5, col.1, lines 29-49). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use local oscillator is in each case connected to a phase locked loop as taught by Burgess with Herring teaching in order to provides a receiver for receiving a radio packet transmitted and a transmission frequency and reduces the number of collisions due to partial overlap.

Regarding claims 7, and 21, Herring teaches the data transmission system according to claim 1, and 15.

Herring fails to specifically disclose base station and mobile station each have a filter for reception-end selection of a transmission frequency. However, Burgess teaches receivers or transmitters for receiving or transmitting respectively a radio packet at a predetermined frequency, Burgess teaches base station and mobile station each have a filter for reception-end selection of a transmission frequency (fig.4-5, col.1, lines 29-49). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use base station and mobile station each have a filter for reception-end selection of a transmission frequency as taught by Burgess with Herring teaching in order to provides a receiver for receiving a radio packet transmitted and a transmission frequency and reduces the number of collisions due to partial overlap.

Allowable Subject Matter

6. Claims 3-4, 11-12, 17-18, 25-26, and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Citation of Pertinent Prior Art

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kockmann et al. (U.S.Pat-6434183) discloses Method and device for radio transmission of data by means of frequency hops.

Ratzel (U.S.Pat-6873615) discloses method and system for data transmission in a wireless network.

Haartsen (U.S.Pat-6393007) discloses Method of and a system for voice and data radio communication providing improved interference diversity.

Dent et al. (U.S.Pat-6490261) discloses Overlapping slot transmission using phased arrays.

Fukuda (U.S.Pat-5737325) discloses Connection method of digital cordless telephone apparatus.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khai M. Nguyen whose telephone number is 571.272.7923. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on 571.272.7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Khai Nguyen
Au: 2687

1/30/2006


2/6/06
LESTER G. KINCAID
SUPERVISORY PRIMARY EXAMINER